

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

14 Cr. 799 (RA)

V.

VIRGIL FLAVIU GEORGESCU,
Defendant.

DEFENDANT'S OPPOSITION TO
GOVERNMENT'S REQUESTS TO CHARGE

Request No. 7

It is requested that any reference to conspiracy to commit reckless murder be deleted.

Request No. 8

It is requested that defendant's requested charge on good faith be inserted after the final paragraph of the government's Request No. 8 dealing with defendant's intent to join the conspiracy charged in Count One.

"Defense Contention

It is defendant Georgescu's contention that he lacked the intent and willfulness essential to the offenses charged because of his good-faith belief,

based on his conversation with the CIA agent. that he was acting on behalf of the government as an aid to law enforcement.

Good Faith /Negation of Intent, Willfulness

As the Court has instructed you ~~both counts~~ Count One of the indictment requires that defendant acted willfully and with both criminal intent to join the conspiracy and with criminal intent to commit the crimes that were the object of the conspiracy.

The good faith of defendant is a complete defense to the charges contained in each count of the indictment because good faith is simply inconsistent with acting with criminal intent to join a criminal conspiracy to commit a crime or with willfully joining such a conspiracy. While the term "good faith" has no precise definition, it means, among other things, an honest belief that one is acting with an intent to act for a good and lawful purpose. A person who honestly believes that his actions do not violate the law cannot be found guilty of willfully violating the law or acting with criminal intent.

The burden of proving his good faith does not rest with defendant Georgescu. The government must disprove it. The government has the burden of

proving to you beyond a reasonable doubt that defendant Georgescu did not act in good faith, that he acted willfully and with criminal intent to both join the conspiracy to commit the crimes that were the object of the conspiracy. If the evidence in the case leaves you with a reasonable doubt as to whether Georgescu acted in good faith or acted willfully with criminal intent you must find him not guilty. In other words, the government must prove, beyond reasonable doubt, that Georgescu did not lack the intent essential to the offense charged because of his good-faith belief that he was acting on behalf of the government.”

“Entrapment by Estoppel

It is requested that defendant’s requested charge on entrapment by estoppel, including defendant’s contention, be inserted following the charge on good faith above, not as an alternative defense.”


Request No. 11

On the issue of whether defendant intentionally and knowingly joined the conspiracy it is requested that court repeat the revised instruction of Request No. 8, including defendant’s requested instructions on good faith /negation of

intent and entrapment by estoppel.

Dated: Queens, New York
April 25, 2016

Respectfully submitted,


Albert Y. Dayan